IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 13339 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

CHETANSINH GUMANSINH WAGHELA

Versus

STATE OF GUJARAT

Appearance:

MR GT DAYANI, for the Petitioners.

MR SK PATEL, A.G.P., for Respondent Nos.1 to 4.

MR BS PATEL, for Respondent No.5

CORAM : MR.JUSTICE D.A.MEHTA

Date of decision: 23/01/2001

ORAL JUDGEMENT

Rule. The Learned A.G.P. and Mr.B.S.Patel on behalf of the respondents waive service of rule. By consent this petition is taken up for final disposal today.

2. The petitioners are unemployed Civil Engineers and are members of unregistered association named 'Ahmedabad Unemployed Civil Engineers' Association. The petitioner Nos.1 and 2 are the President and Secretary of the said association respectively. The grievance of the petitioners in this petition is that the Superintending Engineer namely respondent No.3 who was directed by this Court vide Order dtd.09/10/2000 in Special Civil Application No.10130 of 2000, has not taken any firm decision. Secondly, it is submitted that the provisions of Order 204(A) (XIV) as well as Government Resolution dtd.16/08/1996 have not been taken into consideration while arriving at decision dtd.20th December, 2000 (Page 57). Thirdly, that the petitioners have already made representation on 14/12/2000 to the Government of Gujarat and yet no decision is taken thereupon till date, and in the meantime fresh advertisement is being issued inviting offers/tenders for different works. The petitioner has, therefore, sought relief that this Court should hold and declare that as per Order 204(A) of P.W.D. Manual any work which involves nominal percentage of labour components should not be awarded to Labour Co-operative Societies and issuance of tender forms and acceptance of tenders, awarding of works in favour of the Labour Co-operative Societies should not be finalized in relation to work which involves nominal percentage of labour components.

3. On behalf of respondent No.1 to 4 the learned A.G.P. has categorically stated that they are prepared to follow Order 204(A) of the P.W.D. Manual read with the Govt. Circular dtd.16.08.1996 and thereafter take a decision of inviting tenders and awarding contracts. Mr.B.S. Patel on behalf of the respondent No.5 also submitted that he is agreeable to the submission made on behalf of the respondent No.1 to 4 as well as the submission on behalf of the petitioner that the representation made to the State Govt. should be decided within time bound frame.

4. Having heard the learned advocates for the concerned parties, we find that in relation to advertisment appearing at Annexure 'A' the Superintending Engineer namely respondent No.3 has already taken a decision on 20th December, 2000 and hence no grievance survives to the said extent.

5. In relation to advertisement at Annexure 'B' as modified by advertisement appearing at Annexure 'BB' the Superintending Engineer may take appropriate decision

bearing in mind the direction of this Hon'ble Court in its Order dtd.09/10/2000 as well as provisions of Order 204(A) of the P.W.D. Manual read with Govt. Circular dtd.16.08.1986.

6. We hereby direct respondent No.1 to take into consideration representation dtd.14/12/2000 annexure 'F' (Page 38) alongwith the relevant provisions of P.W.D. Manual as well as Govt. Circular and take a decision on the said representation within a period of four weeks from the date of receipt of writ of this Court or a certified copy of this order whichever is earlier.

7. We may make it clear that this direction and the time frame is relatable to the representation dtd.14/12/2000 only and in so far as a policy level decision that may be required to be taken by the State Govt. is concerned, the same may be arrived at in due course of time. This is being observed in view of the apprehension stated by the learned A.G.P that the Govt. would be required to consult other departments like irrigation department etc. while the present controversy pertains to only R & B Department.

8. In so far as advertisement at Annexure 'CC' is concerned which has come on record as part of affidavit-in-rejoinder the Superintending Engineer may take into consideration the decision of respondent No.1, if any, before arriving at the decision in terms of the directions given herein before.

9. This petition stands allowed to the aforesaid extent.

Rule made absolute with no order as to costs.

(D.A.MEHTA, J)
(B.P.Katira)